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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,706	01/28/2002	David S. Breed	ATI-291	7750
22846	7590	06/16/2005	EXAMINER	
BRIAN ROFFE, ESQ 11 SUNRISE PLAZA, SUITE 303 VALLEY STREAM, NY 11580-6170			ART UNIT	PAPER NUMBER

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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10/058, 706

EXAMINER

ART UNIT	PAPER
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36/6

06082005

DATE MAILED:

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Commissioner for Patents

## Defective Appeal Brief

The appeal brief filed on March 28, 2005 is NOT acceptable for the following reasons:

The brief does not contain, for each rejection under 35 U.S.C. 102, an argument which specifies the errors in the rejection and why the rejected claims are patentable under 35 U.S.C. 102, including any specific limitations in the rejected claims which are not described in the prior art relied upon in the rejection.

Appellant's brief presents arguments relating to whether Cooper et al. (U.S. Pat. No. 6,199,902) is available as prior art against the patentability of claims 1-5, 7-21, 23 and 24 in light of a claim of priority of the present application under 35 U.S.C 120. This issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP § 1002 and § 1201.

Appellant is required to comply with provisions of 37 CFR 1.192(c).

To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 1.192(c) within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C. To whose telephone number is (571) 272-6677. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571)

88

272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for

unpublished applications is available through Private PAIR only. For more information about the PAIR system, see [http://pair-](http://pair-direct.uspto.gov)

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at

866-217-9197 (toll-free).

TTO

June 6, 2005



PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600



Toan To  
Patent Examiner  
June 6, 2005